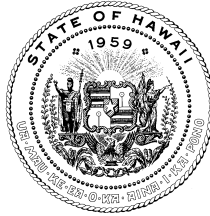


LINDA LINGLE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

PETER T. YOUNG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
DEPUTY DIRECTOR

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**HAWAII ISLAND BURIAL COUNCIL
MEETING MINUTES**

DATE: THURSDAY, March 22, 2007
TIME: 9:00 AM
PLACE: NATURAL ENERGY LABORATORY HAWAII AUTHORITY
73-4660 QUEEN KA'AHUMANU HIGHWAY
KAILUA-KONA, HAWAII

ATTENDANCE:

HIBC MEMBERS: Charles Young, Chair
Ulu Sherlock, Hilo, Vice-Chair
Roy Helbush
Leningrad Elarionoff, Kohala
Ron Dela Cruz, Kohala
Ku Kahakalau, Hamakua
Kaleo Kualii, Kona
Cynthia Nazara, Kona
Dutchie Saffery, Puna

Absent: Pele Hanoa, Ka'u
Anna Cariaga, Ka'u
Jacqui Hoover

SHPD Staff: Keola Lindsey, SHPD- History and Culture Branch
Colin Lau, Deputy Attorney General

Guests:	Lily N. Kong	Aleta Nahale	Maryann P.L. Tralaine
	James Moore	Iwalani Arakaki	Zachary Kanuha
	Tom Stewart	Nani Langridge	
	Kaimi Judd	Lunakanawai Hauani'o	
	Joe Root	Clement Kanuha, Jr.	
	Mary M. Kalili	Herman P. Kunewa	
	Randy Crowe	Iris N. Napaepae-Kunewa	
	Byron Moku	Rae Kahaiali'i	
	Sarah Collins	Doreen Kahaiali'i	

I. OPENING REMARKS

The HIBC Chair Charles Young (Young) called the meeting to order at 9:15 a.m.

Ku Kahakalau (Kahakalau) offered a pule.

The HIBC members, SHPD staff and Deputy Attorney General introduced themselves to the audience.

II. APPROVAL OF THE FEBRUARY 15, 2007 HIBC MEETING MINUTES

Sherlock said the draft minutes have a header “County Council Members September 27, 2006” which should be removed.

Leningrad Elarionoff (Elarionoff) said the minutes should show on page 7 that Young returned to Chair the meeting at 10:47 a.m.

A motion was made to approve the February 15, 2007 HIBC meeting minutes as amended (Kahakalau/Sherlock)

Vote: All in Favor

III. BUSINESS

A. BURIAL TREATMENT PLAN

KAPALA’ALAEA 2ND AHUPUA’A, NORTH KONA DISTRICT, HAWAI’I ISLAND TMK (3) 7-7-008:001 AND 7-7-010:072

Information/Recommendation/Determination: Discussion of the information contained within the burial treatment plan. HIBC determination to preserve in place or relocate the burials identified within the burial treatment plan. HIBC recommendations to the Department on appropriate short and long term preservation and protective measures for the burials sites identified within the burial treatment plan.

Keola Lindsey (Lindsey) said the plan is on the HIBC agenda for a determination for the first time beginning the 45-day clock the HIBC has to render a determination.

James Moore (Moore) introduced himself to the HIBC. A revised burial treatment plan has been submitted. A historical background section has been added. Changes to the covenants proposed in the plan have also been made. The permanent buffer has been increased to 20 feet. The temporary buffer zone has been increased to 40 feet.

Kaleo Kualii’i (Kualii’i) said a HIBC site visit was discussed at the February meeting.

Tom Stewart (Stewart) introduced himself to the HIBC. They are willing to allow a site visit but are concerned about liability if someone gets injured. Stewart asked if the HIBC has a waiver that will release the landowner from liability.

Ron Dela Cruz (Dela Cruz) said a site visit is part of the HIBC's duty. It is insulting to have to sign a waiver to protect our kupuna.

Kuali'i asked if the HIBC is covered. The HIBC has a responsibility to conduct these site visits and need to know we are protected. The landowner is allowing access but does not want any liability issues to become their responsibility.

Colin Lau (Lau) said it depends on what the landowner is asking for.

Stewart said it is undeveloped land and someone could fall and injure themselves. This is not to deter or offend anybody.

Lau said the landowner could ask for a waiver, but it would be up to each individual member to sign it. It is landowners prerogative if they will deny access if the waiver is not signed.

Kahakalau said there should be a standard waiver reviewed by the AG for all HIBC site visits and for the other IBC site visits.

Saffrey said if a member does get hurt on a site visit what position will the State take in helping with medical bills. The members are volunteers.

Elarionoff said it is up to the landowner to select a safe route for the HIBC site visit.

Lau said he would research the liability and waiver issues.

Cynthia Nazara (Nazara) said the idea is to get the HIBC on the property to see what is there and to review the development plans and how those plans affect the burials. It is about getting all the information to make a determination.

Stewart distributed a draft of a conceptual development plan for the property.

Kahakalau said the historical background section places the property in the context of being a very significant area. A concern is what else will be found as the property is developed. Inadvertent discoveries are a big concern. The area is a major corridor for habitation and ali'i.

Kahakalau said the page 21 of the plan specifies the temporary buffers will be measured from the exterior of the site but does not specify where the permanent buffers will be measured from although it is implied that it will be from the exterior. Kahakalau said she appreciates the changes that have been made because it shows Moore and Stewart have listened to the HIBC's concerns.

Dela Cruz said it appears on the development plans that only feature H of Site 24531 will be preserved and the rest of the site features will be destroyed for the development.

Elarionoff asked about access to the burial sites.

Stewart said the conceptual plan shows the footpath access routes to the burial sites.

Young said he is concerned about the density of burials on the property and the development plans and lot density.

Stewart said they have not applied for subdivision approval from the County.

Young said he would like to see development plans which show utilities.

Stewart said generally the utilities run under the development roads.

Nazara said the development plans appear to show the access route to Site 24531 Feature B is through Site 24530. Access routes should never be through sites.

Stewart said he can change the access route to go around Site 24530.

Elarionoff said page 21 of the plan and page 24 list groups and individuals who will be allowed access and lists “appropriate ethnic organizations”.

Lindsey said generally access is for individual recognized descendants and if it is a group, the group should be made up of descendants.

Moore said the intent was to be inclusive.

Elarionoff asked what “reasonable advanced notice” is.

Moore said it has never been defined. Generally, 24 hours is adequate. A specific timeframe could be added to the plan, but it is at the discretion of the landowner.

Young asked if there are recognized descendants.

Lindsey said two individuals have been recognized as cultural descendants to the burials on the property.

Iwalani Arakaki (Arakaki) said her family is connected to the property.

Lindsey said he will work with Arakaki on a descendency claim.

Kahakalau asked Arakaki if the 20 foot buffer and landscaping with native plants is appropriate.

Arakaki said she will think about it.

Lunakanawai Hauani’o (Hauani’o) said he feels access to the sites is very important. The HIBC should be able to conduct a site visit.

Young asked if the title is clear on the property.

Stewart said yes.

Ulu Sherlock (Sherlock) asked about the reference to a “separate preservation plan”.

Moore said there are non-burial sites which will be preserved and are addressed in the separate preservation plan.

Young asked if the development plans call for breaching the Kuakini Wall.

Stewart said yes.

A motion was made to conduct a closed HIBC site visit to Kapala’ala’ea Ahupua’a, TMK 3-7-7-008:001 and 99 and 3-7-7-010:072. (Kuali’i Sherlock)

Vote: All in Favor

Lindsey asked Stewart to send any waivers to the SHPD ahead of time so the AG’s office can review them.

A motion was made to close agenda item III.A. (Kahakalau/Saffrey)

Vote: All in Favor

**B. BURIAL TREATMENT PLAN FOR SITE 23242
HOKULI’A PROJECT PHASE 1, LOT 222
KALUKALU AHUPUA’A, SOUTH KONA DISTRICT, HAWAII ISLAND
TMK (3) 8-1-030:020**

Information/Recommendation: Informational presentation of the burial treatment plan by Pacific Consulting Services, Inc. HIBC recommendations to the Department on appropriate short and long term preservation and protective measures for the burial site identified within the burial treatment plan.

Sarah Collins (Collins) introduced herself to the HIBC. Collins is an archaeologist with Pacific Consulting Services, Inc. Collins gave an overview of the burial treatment plan. The proposal is for preservation in place. Those recognized descendants with current contact information have been consulted during the development of the plan. Access to the site for recognized descendants will be provided. The site buffers extend into a second lot, and those lot owners are in agreement with the plan. The SHPD has concurred with the issuance of a grading permit and construction has started on lot #222. There has been an archaeological monitor present and the permanent buffer and temporary buffers are clearly delineated.

Byron Moku (Moku) introduced himself to the HIBC. Moku is the V.P. of Cultural Resources at 1250 Oceanside partners.

Kuali’i asked if there will be any ground disturbance within the 70 foot construction buffer.

Moku said when there is, an archaeological monitor will be present.

Young asked if this plan is consistent with previous plans which have been approved for the project.

Collins said the primary consistency with this plan is with the 2003 plan which was approved.

Kahakalau said there is normally no activity within the construction buffer. The plan does not specify that the permanent buffer will be measured from the edge of the feature. If the temporary buffer could be reduced to 50 feet in order to avoid activity within the buffer that would be good.

Kuali'i asked if there are plans within the construction buffer.

Moku said there will be excavations. An archaeological monitor will be present.

Collins the house plans are in the plan and show what is planned up to the permanent 20 foot buffer.

Young said he would be more comfortable if there was a monitor at all times, not just when there is work within the temporary buffer. Young said he knows there is a Court approved Settlement Agreement and is not sure what conditions for monitoring are in there.

Moku said there has been a monitor on lot #222 at all times when there have been ground altering activities. There are monitors present throughout the project when there are ground altering activities.

Elarionoff said the plan says there are 180 recognized descendants but only 137 letters were sent the first time and 128 were sent the second time.

Collins said some of the descendants are minor children and for others, Collins said they do not have current contact information.

Elarionoff said he is concerned with the term "worshipping the burial remains" within the Settlement Agreement.

Kahakalau said she is not concerned with the term.

Nazara said it is about showing respect.

Saffrey said it is about honoring and respecting our ancestors.

Young asked Collins to see the form which was sent to the descendants during the consultations.

Kahakalau asked if a "no build" setback could be established from the permanent buffer.

Moku said the development plans call for structures to within 4 or 5 feet of the 20 foot buffer. There will be no roof overhanging the permanent buffer.

Young asked for a scale to be included on the development plan.

Kahakalau said she is concerned about descendants going to visit the site and mahalo our kupuna with the house being so close.

Young asked if the HIBC will be seeing Moku when future Hokuli'a matters are on the HIBC agenda.

Lily Kong (Kong) said she agrees with the proposed buffers and has worked with Moku on the plan. The important thing was to not block the ocean views from the site.

Kong said when you do things right for the kupuna, there are ho'ailona and Kong sees them when she goes to this site.

Hauani'o said the families have worked hard to protect the iwi at this project and this project has a long history. Hauani'o wanted to know the status of the Land Use Commission approval of the entire property. Hauani'o wanted to know the status of then iwi in curation in boxes that are not marked. The Settlement Agreement is between the County of Hawai'i and the landowner. Hauani'o is not sure the HIBC can take action on the agenda item.

Young asked if there are iwi in curation.

Lindsey said yes, there is a curation facility on the project site.

Young asked if there is an agreement for reburial.

Lindsey said no. Lindsey said some of the iwi are from the bypass project, other iwi were identified during laboratory work and returned to the project site. There have no discussions on determining where these iwi will be placed.

Kahakalau said it has been over 5 years. If there are no problems, there is no reason getting those iwi back should not be expedited.

Lindsey said he will start working on it.

Hauani'o said there is an issue of the iwi that they do not know where those iwi came from. There are 68 boxes with no labels. It is in the auditors report.

Lindsey said he has personally inventoried the iwi in curation and it is known where those iwi came from.

Young said a broader discussion on the Hokuli'a project will be placed on the April HIBC agenda.

Kahakalau said she would like to see the plans for the inadvertents that have been removed.

Kahakalau said when she looks at lot #222 the grading has been done and the construction has started. Kahakalau asked if this is a unique situation especially considering that this is a big project and there will be more plans.

Lindsey said generally plans come before the HIBC before work starts, but in this case, the SHPD concurred with the issuance of a grading permit ahead of the plan.

Kahakalau asked if there is a reason. To talk about buffers when the lot has been graded seems after the fact. Kahakalau said she does not understand why the Department puts the plan before the HIBC when it has already happened. This is a big issue, especially in a place where so many issues have already happened. Kahakalau asked how the HIBC can approve this when it is already approved.

Young asked Moku how many more plans will be coming before the HIBC.

Moku said he does not know the number, but there will be more.

Kahakalau said she hopes those future plans will be done in an appropriate way. The work on this lot is already done, so Kahakalau does not know what there is to approve.

Moku said this lot is a stand alone example. The lot owner was looking to get his house construction started and Oceanside 1250 approached the SHPD to approve the grading permit.

Kahakalau said because this lot owner was in a rush, the people with money and power got things approved. The presumption here is not following the regular process and being above and beyond the regular process. This is a previously identified site that is within the kuleana of the HIBC. The HIBC wants to work with Hokuli'a, but this is a slap in the face and it makes it hard to work on things together in the future.

Saffrey said she shares Kahakalau's concerns. Saffrey feels the HIBC is a front for things that go on behind closed doors. This is not the first time this has happened.

Kuali'i asked if this matter has been on previous HIBC agendas.

Lindsey said this is the first time this matter is on the HIBC agenda.

Kuali'i said if he had known the lot had been graded, he would have been going about this in a different way from the beginning. If the HIBC was not involved, how can the HIBC approve anything.

Lau said the matter is on the agenda for an informational presentation. The HIBC can make recommendations to the Department on what is being proposed.

Kahakalau said it is not being proposed, it has been done.

Lindsey said the HIBC will make the determination on preservation in place or relocation. When the Department concurred with the issuance of the grading permit, the protective measures for the site were consistent with those in previously approved plans and thus, the SHPD felt adequate protection for the site was provided.

Young said it leads to the appearance of possible improprieties.

Young said there are broader issues that will be discussed at the next HIBC meeting including the iwi in curation, the Settlement Agreement and the contested case before the Land Use Commission.

Hauani'o said all those issues are related to the agenda item.

Kahakalau said she would like to see all the correspondence on this agenda item. Kahakalau said she does not understand why the iwi stay in curation for years, but then this grading permit is expedited.

Kuali'i said the SHPD letter date August 4, 2006 says the "burial treatment plan has been approved".

Lindsey said there is not an approved plan for this site.

Kuali'i said he would like to see a copy of the Hokuli'a Settlement Agreement.

Moku said he understands the HIBC's concerns and they are valid concerns. Moku said he understands and accepts the responsibilities that come with dealing with the burials at Hokuli'a.

Dela Cruz said there are others who share in and should be taking that responsibility also.

Kong said the State is the one responsible for approving the permit. The HIBC should ask the State why they never told the HIBC.

A motion was made to close agenda item III.B. (Saffrey/Dela Cruz)

Vote: All in Favor

A motion was made to recess the HIBC meeting for lunch. (Elarionoff/Kuali'i)

Vote: All in Favor

The HIBC meeting was recessed at 12:37 p.m.

C. LEGISLATION UPDATE

Information/Discussion: Informational update by the State Historic Preservation Division on legislative bills affecting native Hawaiian burials and Island Burial Councils.

(1) SB 1030, SD2- Relating to Burial Sites

(2) SB 1639, SD1- Relating to Burial Sites

(3) HB 1707, HD 1- Relating to Protection of Caves

Saffery said her problem with the SB 1639 is that it places the expenses of protecting the burial with the descendants.

Kahakalau said she spoke with Senator Kokubun's office, and it will be heard next session. This is an important bill for the HIBC to be involved with because the HIBC is always hearing about inadvertents. It is important to get the numbers in support of the bill. Kahakalau said she has sent testimony in support of the bill.

Rae Kahaiali'i (Kahaiali'i) said the descendants should not be responsible for protecting the burials, the developers are the ones changing the land. The bill should not pass because it does not benefit the Hawaiian community at all.

Young said the descendants being responsible for expenses with special or specific reinterment requests is already in 6E-43(f).

Lindsey said the key words are special and specific.

Kahakalau said the main thing about this bill is placing determinations on inadvertents with the burial councils instead of the Department.

Kahaiali'i said in that case, the families support SB 1639.

Young said he has written in support of SB 1639.

Haunai'o said the HIBC should be making the determinations on all iwi.

Kahakalau said her concern on SB 1030 is that it requires the Department to map burial locations using GPS coordinates. Kahakalau said she is concerned this means that at this point the Department does not know where the burials are.

Lindsey said the Department has different levels of location information on all the burials under its jurisdiction. This bill will require GPS coordinates be generated for all burial sites.

Kuali'i asked about metes and bounds descriptions being generated for each burial site.

Lindsey said that a metes and bounds description is generated by a licensed land surveyor and generally occur within development contexts. Because the land surveyors are licensed, they are putting their license up to back up that their descriptions are accurate. There is a cost factor there.

Elarionoff said he has used GPS devices before and they are very accurate, they often get him to within a few feet.

Elarionoff asked Lindsey if the burial sites are being recorded now by the Department in anyway.

Lindsey said that the burials within a development context do have a metes and bounds description generated, but the Department also responds to burials in non-development contexts at the shoreline or in the mountains. In those non-development cases, the Department does generate location information, but nothing close to a metes and bounds description or GPS location.

Lau said the bill also provides money for the GPD devices.

Lindsey said HB 1707 amends 6D to allow the Department to disclose burial information to the HIBC and OHA when the burials exist in caves or lava tubes. Currently, 6D allows the landowner to request all records on lava tubes and caves on their property be kept confidential.

A motion was made to close agenda item III.C. (Kahakalau/Saffrey)

Vote: All in Favor

IV. CASE UPDATES

C. “HONOKOA CAVE”, KAWAIHAE AHUPUA’A, SOUTH KOHALA DISTRICT, HAWAI’I ISLAND

Information: Discussion of the repatriation process for certain items recovered from a cave in Honokoa, Kawaihae. Discussion of a recent letter sent by the HIBC to the Bishop Museum.

Saffery said she had to leave the HIBC meeting and wanted to discuss her concerns regarding this matter before leaving. Saffery said she was not able to attend the February HIBC meeting. Saffery said she only had time to review the draft February 2007 HIBC minutes yesterday and is very concerned that Edward Ayau (Ayau) who is an attorney was allowed to give advice to the HIBC along with his testimony. Saffery said she noticed in the minutes the HIBC did not have a Deputy Attorney General present and only knows this because Ruby McDonald stated it for the record.

Because of her concerns, Saffery said she has written a letter dated March 21, 2007 which has been distributed to the HIBC and sent to the Attorney General’s office.

Kahakalau said she disagrees with everything in Saffery’s letter. Kahakalau said the letter makes it sound like the Council only relied on Ayau’s advice and testimony to make a decision. There is nothing that Ayau said that resulted in the HIBC doing something that they weren’t going to do anyway. Kahakalau said that if a member such as Saffery has a concern about something that happened at a meeting they were not able to attend, they should bring it up at a meeting for

discussion to see what really happened before writing a letter like Saffery did. Now the letter is out and it makes it look like the HIBC can't handle its business.

Saffery said that Ayau was allowed to make statements about a claim and did not back up those statements with anything in writing.

Young said Ayau is very familiar with the NAGPRA process and Young felt that any insight Ayau could provide on that process would be very helpful. Young said that any member of the public can provide testimony on an agenda item and the HIBC has an obligation to hear it. That is what Ayau did in this case. Young said Ayau provided testimony that there may be lineal descendants and the HIBC motioned that in the vent there are lineal descendants recognized, the HIBC would support them. This is not because of Ayau's testimony, it is because the HIBC has always supported the wishes of families when it comes to iwi and moepu.

Young said at the February HIBC meeting, the HIBC also motioned that the items from Honokoa be returned to Hawai'i Island and that any future claimant meetings be held on Hawai'i Island because this is where these items are from originally. These motions are not necessarily responding only to Ayau's testimony. There have been many others who have testified before the HIBC that feel the same way.

Kahakalau said that if Saffery had concerns about what happened at the February meeting, which Saffery was not in attendance, Kahakalau thinks that a more appropriate approach would be not only to read the draft minutes, but also discuss the matter with the members who were there to see what really happened and what lead to the motions that were made. Instead, Saffery read just read the draft minutes and drew her on conclusions on what happened and then sent the letter out.

Kuali'i said that perhaps the HIBC Chair should be allowed to review any letters that a member is going to send out.

Young said he would never discourage individual members from expressing their concerns in a way they feel is appropriate but it is important to have all of the information and be accurate in what the concerns may be. The HIBC voted to send a letter to Bishop Museum. Young wrote the letter with Lindsey's assistance. The letter is dated February 28, 2007 and Young feels that it states that if lineal descendants are recognized, the HIBC will support their wishes and that any future meetings regarding the items be held on Hawai'i Island. Young said he does not see anything in the letter where the HIBC acted inappropriately or misrepresented any facts.

Saffery said she feels the main point of her letter is to express her concern that the HIBC did not have a Deputy Attorney General present at the February meeting. The HIBC has been advised by the Attorney General in the past that if the HIBC acts inappropriately and steps outside of its duties, that the members can be held responsible as individuals.

Kahakalau said she feels there is much more in Saffrey's letter than concerns about not having a deputy Attorney general at the February HIBC meeting.

Saffery left the meeting at approximately 2:10 p.m. quorum was retained.

D. KOHANA'IKI AHUPUA'A, NORTH KONA DISTRICT, HAWAII ISLAND

TMK (3) 7-3-009: 3, 14

Information/Recommendation: Update on the status of this inadvertent burial discovery. HIBC recommendations to the Department on the long term treatment of the burial site.

Iris N. Napaepae-Kunewa (Napaepae-Kunewa) said as Kona has changed the families have come together to become even stronger to protect what is left for the future generations. The families do this not by choice, but because of the responsibility that has been handed down to them. Napaepae-Kunewa said the families will remain vigilant and will keep fighting. It is important to remember that there is a line and development and the State are on one side of the line and the families are on the other. Discussions can occur and agreements reached, but the line will always remain.

Rae Kahaiali'i (Kahaiali'i) said that since the February HIBC meeting the families have continued discussions and met with the Mr. Dave Eadie of Rutter Development. Kahaiali'i said that at the February HIBC meeting the removal of the rocks fronting the cave was discussed. The removal of the rocks was approved by an SHPD letter dated February 14, 2007 and the families were angry that that Dennis Frost of Rutter Development went ahead and removed the rocks without the families present. Kahaiali'i said the families filed a complaint on that incident, but don't think there will be enforcement action because the State does not view it as a violation. The SHPD letter requested the family's presence when the rocks were removed, but did not require it. In the future, the families will read these letters more closely.

Kahaiali'i said that representatives of the developer will be presenting a new proposal for the inadvertent burial site to the HIBC after she is done testifying. The new proposal is for preservation in place as the families and HIBC have wanted. Kahaiali'i thanked the HIBC for their support of the families at last month's meeting and the recommendations that were made to the State and the developer.

Kahaiali'i invited the members of the HIBC to attend the ceremonies that will be conducted at the site prior to the cave being sealed. The families will be coming over and the times are not definite yet, but the ceremonies are scheduled for the weekend of April 20-22nd.

Ka'imi Judd (Judd) and Joe Root (Root) introduced themselves to the HIBC. Judd and Root are employed by Discovery Land Company who is a partner in the "Shores at Kohanaiki" project with Rutter Development. Discovery Land Company is involved in the marketing and sales of lots within the project.

Judd said one of the first issues he and Root became involved with was the inadvertent burial discovery and very quickly realized that it was a very important issue not only for their development but for the larger community and of course, the families. Judd said Discovery Land Company and its partners are very committed to doing what is right and realize that action always speaks louder than words.

Judd distributed a March 20, 2007 letter to the HIBC which is signed by Dave Eadie, Chief Operating Officer of Rutter Development which proposes to preserve in place the inadvertent burial discovery which occurred on July 31, 2006. The State had originally approved relocating the burial, but following their discussions with the families, the project can be redesigned and the developer would now like to preserve the burial in place. Judd thanked the HIBC for the recommendations they made regarding this matter.

Young asked what the relationship is between Discovery Land Company and Dave Eadie.

Root said that Dave Eadie is the Chief Executive Officer and Operating Officer of Rutter Development. Rutter Development, Discovery Land Company and Kennedy-Wilson are all partners in the development. Rutter does the construction, Kennedy-Wilson is the landowner and Discovery Land Company will be handling the marketing and sales aspects of the development as it moves forward.

Young asked if the HIBC can expect to see Judd and Root at future HIBC meetings when matters at this project come up on the agenda.

Judd said yes. Judd said they are also working in forming a cultural advisory group, but the members have not been selected.

Kahakalau thanked the families for their commitment in seeing this through and all the time they have put in and also thanked the developer for meeting with the families to discuss the issue.

Iwalani Arakaki (Arakaki) said that it is important the iwi be left in place. Arakaki said she and her family have been involved with this since the beginning and fought against the development of this area. Arakaki said she is a lineal descendant to the area.

Zachary Kanuha (Kanuha) said that the frustrating thing has been that the families have been here the whole time and all they wanted to do was sit down with the developer and talk. The families tried three times to meet with the developer but he did not show up. Finally the families were able to meet with Dave Eadie and he agreed with the family that the iwi should be preserved in place. Working with Judd and Root has been encouraging, but there is a lot of work left to do.

Lunakanawai Hauani'o (Hauani'o) said it is good to see the families of the area working together on these issues. It is important that all iwi be preserved in place where the kupuna buried them.

Unknown Male (Hulihe'e?) said that it is good that the developer agreed to preserve the iwi in place but it is important for the developer to remember that if they talk like the wind that comes and then goes without commitments being followed through on, the families will respond with a storm.

A motion was made to close agenda item IV.D. (Nazara/Kahakalau)

Vote: All in Favor

C. “HONOKOA CAVE”, KAWAIHAE AHUPUA’A, SOUTH KOHALA DISTRICT, HAWAI’I ISLAND

Information: Discussion of the repatriation process for certain items recovered from a cave in Honokoa, Kawaihae. Discussion of a recent letter sent by the HIBC to the Bishop Museum.

Young said the HIBC discussed this matter earlier in the meeting before Saffery had to leave, but Young wanted to bring the matter up again for discussion.

Kahakalau said she feels that Saffery’s letter needs a response. Kahakalau said that Saffery said that the main point of her letter was that the HIBC did not have a Deputy AG present at the meeting, but Kahakalau feels that there is much more in the letter that is inaccurate. Saffery’s letter makes it look like that the HIBC only relied on testimony from Edward Ayau at the February HIBC meeting to reach the motions that were made. Kahakalau said the motions that the HIBC made are consistent with the testimony the HIBC has received by countless members of the public on the Honokoa case and are consistent with previous motions that previous HIBC’s have made on the matter.

Kahakalau said that she is especially concerned that the letter has been sent out to the SHPD and the Attorney General’s office and is public record.

Elarionoff said that Saffery’s letter does not bother him that much because she says in the first line of the letter that she was unable to attend the February meeting and only reviewed the draft meeting minutes.

Young said the question becomes how does the HIBC respond. Should the HIBC as a whole respond with a letter or can individual Council members respond with their own letters.

Lau said a response can be generated either way.

Young asked what happens to such a letter when it is received at the Attorney General’s office and would it be helpful if the Attorney General had a response to it from the HIBC as a whole or individual members.

Lau said he has reviewed Saffery’s letter and is not sure what kind of response the Attorney General’s office could provide. It would be helpful if the HIBC or individual members responded to it to show another perspective of what happened at the meeting from people who were actually at the meeting. Saffery was not in attendance at the meeting she has concerns about and appears to have relied only on draft minutes.

Young said it will be up to each member to respond if they feel it is appropriate. Young said he will be responding to Saffery personally and not as the HIBC Chair.

Young asked Lindsey if there has been a response from Bishop Museum to the HIBC’s letter.

Lindsey said he has received confirmation that Bishop Museum has received the letter and will be submitting it to the Bishop Museum NAGPRA review committee and Board of Trustees.

Dela Cruz said that since the items came from Hawai'i Island it is appropriate that any meetings or discussions take place on Hawai'i Island.

Young said the HIBC has also discussed the possibility of the entire Council attending any meetings held on other islands. The issues were whether the State would cover the cost and whether the matter would have to be agendaized as a HIBC meeting.

Lindsey said he will not be the one that makes the ultimate decision whether the State is going to cover the costs of the entire HIBC attending a NAGPRA claimant meeting. The island burial councils were formed with a very specific mandate that is within 6E and Lindsey did not know if attending NAGPRA is in there. If the travel costs were for something like a meeting of all the burial councils to get together and discuss the duties and responsibilities of the island burial councils as mandated by 6E, it may happen, but the tough thing to address is that the island burial councils were not formed for NAGPRA.

Dela Cruz said if it involves iwi and moepu, the HIBC has a duty and a responsibility to be involved with those discussions.

Lindsey said he agreed that the HIBC has a cultural responsibility to be involved in matters involving iwi and moepu but when it comes to the State releasing the funds for travel, he does not know if a NAGPRA claimant meeting would be allowed. Lindsey said when it comes up, he will not be the one that approves it.

Kahaiali'i said that when the Maui Island Burial Council wants to travel for any reason, they just have their staff make their arrangements and they go. Kahaiali'i said that the HIBC should just say they want to attend and have Lindsey make the reservations.

Lindsey said that he does not know the reason why the Maui Island Burial Council needed to travel, it might have been for something that was authorized. It is not as simple as just making the flight reservations, etc. it has to be authorized expenses.

Young said that the HIBC will wait for a response from Bishop Museum. Maybe the future meetings will be held on Hawai'i Island.

Elarionoff said that he has seen this cave in Honokoa referred to by many different names like "Forbes Cave", a cave in Honokoa, etc. On the HIBC agenda today it is referred to as "Honokoa Cave". Elarionoff asked how caves within Honokoa will be differentiated.

Lindsey said the use of the term "Forbes Cave" has been referred to as giving credit to a thief so on this month's agenda the term "Honokoa Cave" was used because for now, only one cave which is subject to the NAGPRA process is being discussed. If multiple caves within Honokoa are being discussed, Lindsey said he will have to find terms that differentiate one cave from another.

Young said there should also be a TMK.

Lindsey said there is and he will try and determine what it is but it might not help in referring to specific caves within Honokoa because Lindsey thought that all of Honokoa will be within one tax map key parcel.

A motion was made to close agenda item IV.C. (Nazara/Kahakalau)

Vote: All in Favor

**A. FINAL PRESERVATION PLAN FOR SITE 50-10-20-19415
PU'ULANI RANCH SUBDIVISION PHASE II
PU'UANAHLU AHUPUA'A, NORTH KONA DISTRICT, HAWAI'I ISLAND
TMK (3) 7-1-006:128**

Information/Recommendation: Discussion of the status of the final preservation plan. HIBC recommendations to the Department on appropriate short and long term preservation and protective measures for the burial site identified within the final preservation plan.

Lindsey said the Department is still within the 90 day time period to approve a final preservation plan for the site and is working with the archaeological consultant to incorporate the HIBC recommendations into the plan.

A motion was made to close agenda item IV.A. (Kahakalau/Nazara)

Vote: All in Favor

**B. HOKUKANO AND KAALAIKI AHUPUA'A KA'U DISTRICT, HAWAI'I ISLAND
TMK (3) 9-5-016:036**

Information/Recommendation: Discussion of community concerns regarding burial sites on the TMK parcel and possible impacts to the burial sites by the construction of a home on the property. Discussion of the advice and or opinions the Department has received from the Department of the Attorney General regarding this matter.

A motion was made to defer agenda item IV.B. to the April HIBC agenda. (Elarionoff/Kuali'i)

Vote: All in Favor

V. ANNOUNCEMENTS

VI. ADJOURNMENT

A motion was made to adjourn the March 22, 2007 HIBC meeting (Helbush/Kuali'i)

Vote: All in Favor

The March 22, 2007 HIBC meeting was adjourned at 3:44 p.m.